



**State of New Jersey**

DEPARTMENT OF EDUCATION

PO Box 500

TRENTON, NJ 08625-0500


CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

CHRISTOPHER D. CERF  
*Commissioner*

March 5, 2013

**TO:** Chief School Administrator  
Director of Special Education  
Administrator of a State Facility  
Administrator of a Charter School

**FROM:** Peggy McDonald, Director   
Office of Special Education Programs

**SUBJECT:** List of Rules, Regulations or Policies that are State-Imposed in  
Accordance with 20 U.S.C. §1407(a)

The New Jersey Department of Education, Office of Special Education Programs (NJOSPE), is required to provide to the United States Department of Education (USDE), on an annual basis, a list of rules, regulations or policies that are state imposed (not required by IDEA or federal regulations) and must include the list with its annual application for federal funding. The list of such rules, regulations or policies is set forth below.

Thank you for your attention to this matter.

PM/JW/KE

c: Members, State Board of Education  
Commissioner Christopher D. Cerf  
Barbara Gantwerk  
Senior Staff  
Diane Shoener  
John Worthington  
Executive County Superintendent  
Executive Director for Regional Achievement Center  
Executive County School Business Administrator  
County Supervisor of Child Study  
Members, NJ LEE Group  
Garden State Coalition of Schools

- A. Timeframes:** The following regulations were adopted to provide consistent timelines to implement IDEA mandates. By regulating timeframes, the State has provided clear expectations for the completion of specific federal mandates. Additionally, mandated timelines are intended to minimize disputes between local school districts and parents as to whether mandates were fulfilled in a timely manner.

<b>State-Imposed Requirement</b>	<b>Rationale for State Requirement</b>
<b>Written notice:</b> 15 day timeframe for the provision of written notice. <b>N.J.A.C. 6A:14-2.3(h)</b>	IDEA requires that parents be provided written notice when a local school district (LEA) proposes any action pertaining to the identification, referral, evaluation, and placement of students with disabilities. The State developed a timeframe to ensure that parents have sufficient time to consider the actions proposed by the local school district.
<b>Excusal from a meeting:</b> Timeframe for local school districts to seek and obtain parental consent to excuse a required team member from an IEP team meeting. <b>N.J.A.C. 6A:14-2.3(k)9-10</b>	IDEA provides that the excusal of an IEP team member from a meeting can occur only when the parent is in agreement. The State provision requires that parents be provided a reasonable amount of time to consider a request to excuse a staff member in order to ensure that parents are fully informed and receive sufficient time to consider the excusal.
<b>Disciplinary removal:</b> Time period for discipline removals of students with disabilities changed to 45 calendar days rather than 45 school days. <b>N.J.A.C. 6A:14-2.8(d) and 2.8(f)</b>	IDEA allows students with disabilities to be removed from school through suspension/expulsion. The federal timeframe for such removals was changed from 45 calendar days to 45 school days. The State maintained the 45 calendar day provision based on the belief that removal for 9 weeks was too long of a period for a student to be removed from their educational program.
<b>Determination of eligibility for special education:</b> 90 day time period established to complete an initial evaluation and, if eligible, to initiate services. <b>N.J.A.C. 6A:14-3.4(e)</b>	IDEA specifies a 60 day timeline for LEAs to conduct evaluations to determine if a student is eligible for special education, and mandates that each student's IEP be implemented without undue delay after the evaluation is completed. The State regulation created a 90 day time period to complete the evaluation of a student with disabilities and, if eligible, to initiate services. This timeframe was developed to define "undue delay," by setting a date by which the IEP must be implemented.
<b>Provision of reports to parents:</b> 10 day time period for providing parents a copy of evaluation reports prior to the meeting that is held to determine eligibility for special education services. <b>N.J.A.C. 6A:14-3.5(a)</b>	IDEA requires that reports and documentation used to determine eligibility for special education and to develop a student's IEP be provided to parents. The State regulation was established to ensure that parents have sufficient information and sufficient time to review and consider the evaluation results prior to the eligibility

	determination and IEP meetings.
<b>State-Imposed Requirement</b>	<b>Rationale for State Requirement</b>
<b>Amending IEP without a Meeting:</b> Timelines and procedures, including obtaining parental consent, when amending a student's IEP without a meeting. <b>N.J.A.C. 6A:14-3.7(d)</b>	IDEA allows for an IEP to be amended without a meeting. The State regulation was added to provide procedures for making the amendments.
<b>Conducting Reevaluations:</b> 60 day timeframe for conducting and completing reevaluations of students with disabilities. <b>N.J.A.C. 6A:14-3.8(e)</b>	IDEA requires that students with disabilities be reevaluated once every three years or sooner, if needed. The State regulated a 60 day timeframe for completing the reevaluation to prevent undue delay in conducting and completing reevaluations and providing programs and services determined necessary based on the reevaluation findings.
<b>Student Transfer:</b> 60 day time period for evaluation of students that transfer from a nonpublic school. <b>N.J.A.C. 6A:14-4.1(m)</b>	The IDEA addresses transfers of students with an IEP. The State regulation established a time period for evaluation, as necessary, and development of an IEP when a student with a disability transfers from a nonpublic school with a service plan to a public school, where he or she would receive an IEP.

**B. Mediation/Due Process Procedures:** States are required to have a system in place to implement federal law with regard to mediation and due process hearings. These regulations provide clear and consistent procedures for mediation and due process hearings to resolve disputes.

<b>State-Imposed Requirement</b>	<b>Rationale for State Requirement</b>
<b>Mediation:</b> Enforcement of mediation agreements. <b>N.J.A.C. 6A:14-2.6(d)11</b>	IDEA requires states to offer parents and local school districts the opportunity to mediate disputes without the need to incur the time and expense of filing for a due process hearing. This state regulation provides for enforcement of mediation agreements on behalf of parents in order to ensure that parties will agree to mediate and save the expense of a formal due process hearing.
<b>Resolution meetings:</b> <ul style="list-style-type: none"> <li>Prohibit the recording of a resolution meeting held after a parent files for a due process hearing. <b>N.J.A.C. 6A:14-2.7(h)3</b></li> </ul>	IDEA requires that states offer local school districts and parents the opportunity to resolve disputes through due process hearings. Prior to such hearings occurring, the parties may participate in a resolution meeting. If an agreement is reached at the resolution meeting, IDEA provides that it may be voided by either party within

<ul style="list-style-type: none"> <li>Require resolution through due process hearings and not complaint investigations of disputes that occur over voiding of resolution meeting agreements held after a parent files for a due process hearing. <b>N.J.A.C. 6A:14-2.7(h)6iv.</b></li> <li>Require that disputes over scheduling and conducting a resolution meeting held after a parent files for a due process hearing will be resolved in the due process hearing and not through the complaint investigation process. <b>N.J.A.C. 6A:14-2.7(h)7</b></li> </ul>	<p>three business days of it being signed. The State adopted regulations to provide a forum to resolve disputes if parties seek to void agreements reached at these meetings and when disputes arise over the scheduling and holding of such meetings, and to prevent audio and video recording of the meetings in order to encourage discussion.</p>
<p><b>Due process hearings:</b> Enforcement of due process hearing decisions. <b>N.J.A.C. 6A:14-2.7(t)</b></p>	<p>IDEA requires that states offer local school districts and parents the opportunity to resolve disputes through due process hearings. This state regulation provides for enforcement of decisions issued as a result of a due process hearing, on behalf of parents, in order to ensure that districts implement decisions as ordered.</p>
<p><b>Section 504 Due process hearings:</b> Permits mediation and due process hearings to resolve disputes over 504 plans. <b>N.J.A.C. 6A:14-2.7(w)</b></p>	<p>Regulations implementing Section 504 of the Rehabilitation Act of 1973 allow for mediation and due process hearings to resolve disputes between school districts and parents. In accordance with its agreement with the Federal Office for Civil Rights, the State adopted a regulation permitting parties to file for mediation and due process hearings with the New Jersey Department of Education with respect to issues concerning 504 plans.</p>

**C. Operational Procedures:** These regulations were developed to set forth uniform program parameters throughout the state.

<b>State-Imposed Requirement</b>	<b>Rationale for State Requirement</b>
<b>Creation of a Parent Advisory Group:</b> This regulation requires that each school district create a special education parent advisory group. <b>N.J.A.C. 6A:14-1.2(h)</b>	This provision was developed so that districts and parents would have an opportunity to work collaboratively on issues relevant to the special education population.
<b>Audio-taping IEP meetings:</b> Permits IEP participants to audio-tape an IEP meeting. <b>N.J.A.C. 6A:14-2.3(k)8</b>	This provision was developed so that parties would have a means of reviewing agreements and discussions subsequent to the meeting.
<b>Independent evaluations:</b> Allows school districts to evaluate a student prior to the parent obtaining an independent evaluation at district expense. <b>N.J.A.C. 6A:14-2.5(c)1</b>	The IDEA requires that parents be permitted to obtain an independent evaluation at public expense. The State adopted this regulation to provide districts an opportunity to conduct their own assessments prior to incurring costs for independent evaluations.
<b>Discipline of Preschool Students with Disabilities:</b> Prohibits the suspension or expulsion of preschool students with disabilities. <b>N.J.A.C. 6A:14-2.8(a)1</b>	Federal and state regulations provide for the suspension or expulsion of students with disabilities under certain circumstances. The State adopted this regulation because it considered these disciplinary measures inappropriate for preschool students with disabilities.
<b>State-Imposed Requirement</b>	<b>Rationale for State Requirement</b>
<b>Location, Referral, Identification and Evaluation:</b> Established procedures for referral and evaluation of students with disabilities. <b>N.J.A.C. 6A:14-3.3(e)</b>	IDEA requires that states have in place policies and procedures for locating, identifying, and evaluating students with disabilities for eligibility for special education and related services. The State adopted these regulations to provide the required policies and procedures for initiating, conducting and completing initial evaluations.
<b>Audiometric and Vision Screening:</b> Requires audiometric and vision screening for all students referred for an evaluation to determine eligibility for special education and related services. <b>N.J.A.C. 6A:14-3.3(g)–(h)</b>	These requirements ensure that hearing and vision problems are identified prior to conducting initial evaluations for the purpose of determining student eligibility for special education.

<p><b>Location, Referral, Identification and Evaluation:</b> Requires that local school districts provide and document the effectiveness of interventions used prior to the referral of a student for a determination of eligibility for special education and related services. <b>N.J.A.C. 6A:14-3.3(a)3i; 6A:14-3.3(b)</b></p>	<p>The State adopted regulations to ensure that, when appropriate, local school districts first attempt interventions and document the effectiveness of the general interventions that are implemented, prior to referring a student for an evaluation for eligibility for special education and related services.</p>
<p><b>Evaluation:</b> Permits local school districts to utilize reports from other school districts, clinics and agencies, and private practitioners submitted by parents as one of the required assessments for an initial evaluation. <b>N.J.A.C. 6A:14-3.4(i)</b></p>	<p>This regulation provides local school districts cost savings and flexibility when evaluating a student by permitting them to use outside reports when conducting an initial evaluation of a student.</p>
<p><b>Personnel to Provide Special Education and Related Services:</b> Identifies and delineates general requirements with respect to personnel who may evaluate students and provide special education and related services. <b>N.J.A.C. 6A:14-3.1</b></p>	<p>IDEA requires that states have in place personnel in sufficient numbers to appropriately serve students with disabilities. Child study teams are required by State law. The State regulations specify the roles and responsibilities of child study team personnel.</p>
<b>State-Imposed Requirement</b>	<b>Rationale for State Requirement</b>
<p><b>Personnel to Provide Special Education and Related Services:</b> Requires assignment of a Case Manager for each student with a disability and delineates who may serve in this role. <b>N.J.A.C. 6A:14-3.2</b></p>	<p>This regulation establishes a single point of contact for school personnel and parents for each student with a disability and to coordinate the evaluation of, and provision of, services.</p>
<p><b>Transition:</b></p> <ul style="list-style-type: none"> <li>Requires assessments at age 14 to determine postsecondary outcomes. <b>N.J.A.C. 6A:14-3.4(f)5</b></li> <li>Requires that transition planning process commence for students with disabilities at age 14. <b>N.J.A.C. 6A:14-</b></li> </ul>	<p>IDEA 2004 changed the age at which transition begins, including assessments to determine postsecondary outcomes, from 14 to 16. The State maintained transition at age 14 in order for the transition planning process to begin when students enter high school, which is when all students begin transitioning to postsecondary outcomes.</p>

<b>3.7(e)11.</b>	
<b>Eligible for Speech-Language Services:</b> Sets forth procedures for determining a student eligible for speech-language services. <b>N.J.A.C. 6A:14-3.6</b>	The regulation reduces costs by decreasing the number of persons that must evaluate a student and participate in meetings to determine a student eligible for speech-language services and to develop an IEP for these students.
<b>Individualized Education Programs:</b> <ul style="list-style-type: none"> <li>Requires that local school districts inform all teachers and service providers who will implement provisions of a student's IEP of their responsibilities for implementing each IEP. <b>N.J.A.C. 6A:14-3.7(a)3</b></li> <li>Requires a review of the instructional day to determine the accommodations and modifications needed to facilitate participation of a student with disabilities in a general education class. <b>N.J.A.C. 6A:14-3.7(c)11</b></li> <li>Requires that short-term objectives be included in the IEP of each student with a disability. <b>N.J.A.C. 6A:14-3.7(e)3</b></li> <li>Requires that, annually, the IEP team consider activities to transition students with disabilities placed in a setting with no general education peers to a less restrictive setting. <b>N.J.A.C. 6A:14-3.7(k)</b></li> <li>Requires that parents be provided either a copy of a draft IEP or notes setting forth agreements made at an IEP meeting. <b>N.J.A.C. 6A:14-3.7(l)</b></li> </ul>	<p>Development and implementation of IEPs are required by IDEA 2004. The State regulation is intended to ensure that the student's instructional staff members have knowledge of the student's educational and program needs.</p> <p>This regulation supports the federal mandate for placement of students with disabilities, including preschool students, in general education programs with appropriate supports and services.</p> <p>The State regulation is intended to ensure that school personnel, parents, and students have specific information about the student's instructional program during the course of the IEP.</p> <p>The State regulation supports the federal mandate to educate students in the least restrictive environment with appropriate supports by requiring annual determination of needed activities to transition the student to a less restrictive educational setting.</p> <p>This regulation ensures that all participants at the IEP meeting are aware of what was decided at the meeting. The regulation is intended to minimize later disputes over what was decided at IEP meetings.</p>

<b>Transition:</b> Requires a statement of when and how a student will transition from an elementary to secondary program. <b>N.J.A.C. 6A:14-3.7(e)10</b>	This regulation was developed to ensure a smooth transition when students move from a K-8 school district to a regional school district or receiving school district and ensure continuity of programming and services.
<b>Related Services:</b> Requires that, when non-certified personnel provide related services to students with disabilities, the provision of the services be under the supervision of certified school district staff. <b>N.J.A.C. 6A:14-3.9(a)11</b>	This regulation ensures that appropriate persons are overseeing the provision of related services.
<b>State Assessment:</b> Delineates procedures for the participation of students with disabilities in the statewide assessment system. <b>N.J.A.C. 6A:14-4.10</b>	IDEA requires that students with disabilities participate in State assessments. The State regulation sets forth expectations for local school districts, parents and students, regarding the participation of students with disabilities in the regular assessment, and when a student may participate in an alternate assessment.
<b>Staffing and contractual requirements:</b> Sets forth general requirements with respect to contracting for, and the hiring of, certain personnel. <b>N.J.A.C. 6A:14-5.1</b>	IDEA requires that there be sufficient staff to ensure provision of required programs and services. The State regulations set forth criteria for hiring, contracting, and purchasing services.
<b>Monitoring:</b> Sets forth procedures for conducting the monitoring of local school districts as required by IDEA 2004. <b>N.J.A.C. 6A:14-9.1(b) – (i)</b>	IDEA requires that states monitor local school districts. These regulations set forth general parameters regarding the NJDOE's monitoring system.
<b>Complaint Investigations:</b> Establishes procedures for processing and conducting complaint investigations. <b>N.J.A.C. 6A:14-9.2</b>	IDEA requires that states have a complaint investigation process. These regulations set forth general parameters regarding the NJDOE's complaint investigation process.
<b>State-Imposed Requirement</b>	<b>Rationale for State Requirement</b>
<b>Early Intervention Services:</b> Sets forth general requirements for contracting with early intervention programs for students, age three. <b>N.J.A.C. 6A:14-10.2(b)</b>	This regulation enables local school districts to contract with the State's Early Intervention Programs, when the IEP team determines it is appropriate for a child to remain in an early intervention program, once they turn age three.



**D. Program Organization:** The following regulations were adopted to provide for consistent programmatic organization across the state with respect to factors such as class type, class size, instructional time, and program options.

State-Imposed Requirement	Rationale for State Requirement
<p><b>Programs and Services:</b> Provides a structure for organizing programs for students with disabilities, including:</p> <ul style="list-style-type: none"> <li>• General program requirements for school age and preschool age students with disabilities. <b>N.J.A.C. 6A:14-4.1(b)–(e)</b></li> <li>• Group sizes for students with disabilities being instructed in general education subjects and physical education and participating in intramural or interscholastic sports programs that consist solely of students with disabilities. <b>N.J.A.C. 6A:14-4.1(h)1</b> <b>N.J.A.C. 6A:14-4.1(h)2</b></li> <li>• Equivalent instructional time for students with disabilities that is equal to that provided to general education students, in each subject area, when they are instructed in resource programs or special class programs. <b>N.J.A.C. 6A:14-4.1(l)</b></li> <li>• Procedures for placement of preschool children with disabilities in general education early childhood programs. <b>N.J.A.C. 6A:14-4.3(d)</b></li> <li>• Specific program options/criteria to implement requirements in IDEA 2004 to provide students a</li> </ul>	<p>These regulations address programmatic factors such as class type, class size, instructional time, and program options. The regulations provide local school districts across the state with a standard means for organizing and implementing programs. Additionally, the regulations provide parents with a set of expectations regarding the configuration of various program options.</p>

<p>free, appropriate public education (FAPE); for speech-language services; supplementary aids and services; supplementary instruction and resource programs.</p> <p><b>N.J.A.C. 6A:14-4.4</b>  <b>N.J.A.C. 6A:14-4.5</b>  <b>N.J.A.C. 6A:14-4.6</b></p> <ul style="list-style-type: none"> <li>Procedures for placement of preschool children with disabilities in general education early childhood programs, consistent with the federal mandate for placement of students with disabilities in the least restrictive environment. <b>N.J.A.C. 6A:14-4.3(d)</b></li> </ul>	
<p><b>Parent Observation of Proposed Program:</b> Authorizes parents to observe proposed educational placements.  <b>N.J.A.C. 6A:14-4.1(k)</b></p>	<p>This regulation allows parents to observe and become familiar with a proposed program prior to agreeing to its implementation.</p>
<p><b>Waivers for Age Range and Group Sizes:</b> Allows districts to request and obtain exceptions for increasing age ranges and group sizes for specific program options.  <b>N.J.A.C. 6A:14-4.9</b></p>	<p>This regulation permits school districts to request and obtain exceptions to certain State regulatory requirements with respect to age range and group sizes.</p>

**E. Receiving Schools:** The following regulations govern the provision of programs in public and private receiving schools, and programs operated by State agencies, and were adopted to provide procedural and programmatic requirements to govern the special education and related services provided by these public and private entities.

State-Imposed Requirement	Rationale for State Requirement
<p><b>Receiving Schools:</b> Establishes operational requirements for educational services commissions, jointure commissions, regional day schools, county special services school districts, the Marie H. Katzenbach School for the Deaf, approved private schools for students with</p>	<p>These regulations set forth expectations regarding the operation and responsibilities of receiving schools serving students with disabilities.</p>

disabilities, and college operated programs for students with disabilities.

**N.J.A.C. 6A:14-7.1 – 7.10.** The regulations delineate:

- General requirements for the provision of programs in receiving schools to implement requirements in IDEA 2004 to provide students FAPE. **N.J.A.C. 6A:14-7.1**
- Approval procedures for receiving schools. **N.J.A.C. 6A:14-7.2**
- Procedures for amending policies and procedures of receiving schools. **N.J.A.C. 6A:14-7.3**
- Required procedures for approved private schools for students with disabilities.  
**N.J.A.C. 6A:14-7.4**
- Responsibilities of school districts with respect to students placed in receiving schools.  
**N.J.A.C. 6A:14-7.5**
- Requirements for provision of programs in receiving schools to implement requirements in IDEA 2004 to provide students FAPE.  
**N.J.A.C. 6A:14-7.6**
- Requirements for terminating or withdrawing a student with a disability from a receiving school.  
**N.J.A.C. 6A:14-7.7**
- Requirements for fiscal management of receiving

<p>schools. <b>N.J.A.C. 6A:14-7.8</b></p> <ul style="list-style-type: none"> <li>Requirements and responsibilities of receiving schools with respect to student records. <b>N.J.A.C. 6A:14-7.9</b></li> <li>Requirements for monitoring of receiving schools. <b>N.J.A.C. 6A:14-7.10</b></li> </ul>	
<p><b>Programs Provided by Other State Agencies:</b> Delineates general requirements for the provision of programs and procedural protections by the State Departments of Corrections and Human Services, as well as the Juvenile Justice Commission. <b>N.J.A.C. 6A:14-8.1, 6A:14-8.2, and 6A:14-8.3</b></p>	<p>These regulations were adopted to set forth general expectations, procedural safeguards and program provisions for the Departments of Corrections and Human Services, and the Juvenile Justice Commission, when serving students with disabilities.</p>

**F. State Law Implementation: The following regulations were adopted in order to implement requirements of State laws.**

<b>State-Imposed Requirement</b>	<b>Rationale for State Requirement</b>
<p><b>The Uniform Application Act:</b> The regulation requires that an application for Developmental Disabilities services be provided to students with disabilities who may be eligible for services from the Division. <b>N.J.A.C. 6A:14-1.2(b)17</b></p>	<p><b>N.J.S.A. 30:4-25.10 et seq.</b> requires provision of an application for Division of Developmental Disabilities services to certain students with disabilities.</p>
<p><b>Classification:</b> Adds the State classification of “Socially Maladjusted” to the list of federal classifications. <b>N.J.A.C. 6A:14-3.5(c)11</b></p>	<p><b>N.J.S.A. 18A:46-2.</b> sets forth the classification of “Socially Maladjusted.”</p>
<p><b>Clinics and Agencies:</b> Sets forth approval procedures for</p>	<p><b>N.J.S.A. 18A-46-12</b> requires approval of clinics and agencies and allows</p>

clinics and agencies. <b>N.J.A.C. 6A:14-5.2</b>	approved clinics and agencies to provide services for students with disabilities.
<b>Nonpublic Services:</b> Sets forth provisions governing state-funded programs to provide remedial and auxiliary services to students in nonpublic schools. <b>N.J.A.C. 6A:14-6.2, 6A:14-6.3, 6A:14-6.4</b>	<b>N.J.S.A. 18A:46-19.1 et seq; N.J.S.A. 46A-1 et seq.</b> create state-funded programs to evaluate, classify and provide services to students with disabilities attending nonpublic schools.
<b>Placement of students with disabilities in unapproved schools:</b> Implements the State law with respect to placement of students in accredited unapproved schools that are not approved by the Department of Education for the education of students with disabilities. <b>N.J.A.C. 6A:14-6.5</b>	<b>N.J.S.A. 18A:46-14</b> permits school districts to place students with disabilities in unapproved accredited schools under specifically delineated circumstances.
<b>State-Imposed Requirement</b>	<b>Rationale for State Requirement</b>
<b>Copies of Regulations:</b> This regulation implements the statutory requirement to ensure that parents have access to the special education requirements and that they have knowledge of procedural protections afforded to parents and students and all other special education requirements. <b>N.J.A.C. 6A:14-2.1(b)</b>	<b>N.J.S.A. 18A:46-7.1</b> requires that copies of Chapter 46 of the New Jersey Statutes and Regulations governing special education must be provided to parents by the local school district when they request them.
<b>Emergent Relief:</b> This regulation sets forth procedures for the filing of emergent relief by parties for a due process hearing. <b>N.J.A.C. 6A:14-2.7(r) and 2.7(s)</b>	The State of New Jersey allows parties to file for emergent relief so that they may seek immediate relief, when necessary, to address specific issues when filing for a due process hearing. Case law requires that the regulation conform to standards utilized in judicial proceedings for consideration of requests for emergent relief.